App F IX 4

Previous References

1935-36 mel

File No 62-35.
Serial Nos 424

Later References

GENERAL AND REVENUE SECRETARIAT.

Serial Nos 1

Part B for may 1936

SUBJECT

An authorised Construction in Madduru Lanka by one Govinda Setty

Readers

Coll 11/6/36

Jud 35-36 V3441

DEWANS MINUTE

FILE No 193

Dated

to Typist

Please ask if it is a fact that
one Govinda chetty has encroached on the
pathe road, passing through Mattur village,
& built a shop & dwelling house -
The Municipal prosecutor has, but in S 8-0
he has off with a fine of Rs 10/- & allowed
the buildings & stand as it was & was built
& the man got a valuable piece of land
for Rs 10/-

2) Please ask to & have enquiries & submit a report
within 10 days of receipt of this letter -

MJ
3-2-35

General Sig)

3) Please put this draft to
the Dewan Today
4/2

4) Done
4/2 5) Issue today & resubmit
4/2

TYPN
4 FEB 1935
EJL & REV SECTT

6) Re the def, typist
S-317 dt 4-2-35
calls for a report on this matter

6) Renew after issue Report - have submitted

Pay W/2
462
ECH 1C

7 For perusal
Dewan Sahib)
4/2

5/2

Madras Jurisdiction Grounds

3444 3531 3531

eneral and Revenue Secretariat — File No — of 193 5-35 — [App F III

Serial No

From

The Deputy Comr, Mysore Dist

No D3 3079/34 dy 7 2 35

In reply to letter dated 4 2 35, forwards a copy of the report dated 29 1 1935 received from the President Nadoha municipal council detailing facts of the case & asks that the President is empowered under Sec 78(2) of the Town Municipalities Regulations to remove the obstruction or encroachment, has been directed to take immediate action in the matter & report the result —

1 c FEB 935 No 4906

4919

9 The D-C's report &c enclosed are submitted for perusal

10 Refce paras 1 & 2 Supra

GRR 11/2/35 MW/11/2

Dy Secy) AAR 12/2

11 Dy Comr's letter for perusal. The Dy Comr seems to have no orders that the Pres should take action to have the encroachment removed & further ref to him will be called for. Dewan

19 He does not say who the offender was. Shall we have to Lincoln & the Magistrate

Contn Sheet

WD 01955—GPB—22 500—12-6 34

File No of 193 General and Revenue Secretariat

File No 3842 of 193

General and Revenue Secretariat

Letter no 03 / 78/34 dy 26-2-35 from the DC, urgs the stating that the court records and the convicted not records will be sent immediately after the appeal is decided by the High court, that needful instructions have also been issued to the police to take further action under Sec 379(b) after the disposal of the appeal, and that a report has been called for from the Ex-Press Relay Magistrate at Mandya as to how he let off the offender with a small fine

19) Submitted for perusal. Agree Dewan's minute paras 12-14 supra

5264
2/3

Dewan 1/3

ASR 1/3

Vide next page

Unauthorised Construction on Maddur

General and Revenue Secretariat — File No — of 1935 — [App F III—2

Serial No

he left him off with only a small fine
& did not order the removal of the
obstruction

13th shall he asked to attach the
Magistrate & make another report early
& Good

14 That in any amount of slackness on
the part of an officer should have the fact
drawn with a firm hand
Please see my remarks on 8 the report

MR
18-2-35

15 Please speak to me

MW
19-2-35

16 Address DO letter to the Dy Com as instructed in portion

Dy Secy)
ASR
20/2

17 Maybe altered
Test Memo

MW
20-2
ASR
20/2

KG
21/2
18) Memo (re Petition)
MW 21/2
ASR 21/2

LEGISLATIVE SECTT

for B Hill 5/3/35

Recd, & thy, report
5807 dy 22-2-35
calls for further information

for B Hill 5/3/35

NOTE—Contn Sheet

WD 01955—GPB—22,000—12-6-34

DEWANS OFFICE
1 MAR 1935
No. 1109

3542

DEWANS MINUTE

FILE No 1935

3914 I

L B & CPA CH

1) Has the explanation of the S Surveyor Officer Manager, been sent to S the Deputy Commr, as desired by him some days ago for allowing the Construction of a Shop on the main road passing through Madras

2) If not please send for to obtain & submit further Loss of time

MJ
2-3-35

Secy ~~the Govt~~
General Dept

Urgent
1pm 2-3-35

Draft
dcg
4/3/35

To Legislative Dept
Ed

2) Please put up the connected file (D no 3542) has been received from Legislative Dept 4/3

3) The connected file (D no 3542) has been received from Secy Dept on 1-3-35

4/3

4) Orders issued on 5-3-35 — DC who reminded regarding the report called for vide I class Magistrate Manager

Issued on 5/3

5) Issue as DO, under Dewan's Signature
To be issued today
5-3-35

Unauthorised construction – Madden Tank

3914 of 1935 ?

General and Revenue Secretariat | File No | of 193 3966 | [App F III—2

Serial No

DEWAN'S OFFICE
11 MAR 1935
No 5205

Letter no 03 3029/34 dy 5-3-35 from Dep Com regd the forwarding letter no 117 dy 1-3-35 received from Ex-Officio First class Magistrate, Ranya, containing his explanation

W 26) The letter dy 1-3-35 of the I class Magistrate fully explains the ~~facts~~ circumstances of the case

Herewith returned to Devans minute dy 2-3-35

Flag W 27) The Dycom's letter dy 26-2-35 and the Ex-Officio I class Magte (S D O) letter dy 1-3-35 are submd for perusal

28) The appeal filed before the High Court referred to in the Dy Com's letter does not seem to have been decided yet

Dewdney) 6/3
Second Member
Dewan) 7/3

29) I submit the file for the papers after the appeal is disposed of. There must be a quick method of dealing with the encroachments on public roads

OFFICE OF THE
SECOND MEMBER OF COUNCIL
7 MAR 1935
No 5267 D

NOTE—Contn Sheet

Dewdney 31-3-35

WD 01955—GPB—22 500—12 6-34

30 11-3-35

Unauthorised construction — Maddur

4338 / 1937 [4532]

File No | of 193 | General and Revenue Secretariat

Letter no. 03-3079/34-35 dt 26-3-35 from the DC, mysore forwarding the case records received from the Ex-Asst I class Magistrate, Mandy and stating that the petn, Maddur mulct has again been reminded to submit forthwith the rel records of the case

31) A copy of the High Court order passed in the appeal case is put up for perusal. It is reported by the DC that the case has been posted for re-trial to 2-4-35

32) Rel rule regards paras II and 29 & 30 supra members must have by supra

33/ for perusal

34, The records will be returned, after perusal, as the Magte has posted the case for fresh trial in accordance with the order of the High Court

5893/29/3

Dw 29/3

35) The Revenue Magte returns the records of the case with the new judgment awarded

DW 30/3

36) The last petn was issued today vide Dw 30/3

GENL & REV SE

eneral and Revenue Secretariat

File No 4338 of 193

[App F III-2

Serial No

To

Mewar, Ajmer &c

67 95 dy 30-3 35

"Returns the records & requisition & forwards copy of the revised judgment as soon as it is passed

Sent A/ 1/11

Letter no 1 dy 3079/34-35 dy 8-8-35 from Dist Magistrate, Ajmer forwarding copy of the revised judgment passed by the First class magistrate, Nasirabad

37) Submitted for perusal and orders with reference to 35 ante noting supra

dy 15/8/35 M/15/8

38) Reference is invited to para 9 of the judgment

39) (The records relating to case have not been sent)

Dy Secy) - dtd 17/8

40) Please write and send an acknowledgement given to the Govt

41) Draft-sent for approval

M/20/8 dtd

42) Issue dtd 23/8

1082 9/8/35

TYPING SECTION 26 AUG 1935 GENL & REV SECTT

Note—Contn Sheet

-100

File No of 193

General and Revenu Secretariat.

To memo, dtd
1577 dtd 14-8-35
enquiries whether above has been
given to the orders passed

29/8

Please see next page

2011/2 13

Proceedings of the Government of His Highness
the Maharaja of Mysore.

..

R E A D

ices

Letter No.Dg.1520/35-36 dated 30th October 1935 from the Deputy Commissioner, Mysore stating that one Govindasetty of Maddur who was convicted and sentenced to pay a fine of Rs 30 by the Ex-officio I Class Magistrate at Mandya for unauthorised construction of a building and also to pay an additional fine of Rs.5/- each day till he set right as per conditions of the license, has filed a review petition C R P No 122/35-36 in the High Court of Mysore which stands posted to 11th November 1935 and soliciting sanction of Government to engage the services of the Government Advocate on behalf of the Municipal Council to oppose the application

ncil.

Order No. P 3014-16 Law 85-35-2

Dated Bangalore 5th November 1935

~~The Government Advocate, Bangalore~~

S A N C T I O N E D

allow
evidence
Comptr
Mysore

For General Secretary to Government

TSD

To

The Government Advocate, Bangalore
The Deputy Commissioner, Mysore with a request that the duplicate notice with the connected papers may be sent immediately to the Government Advocate direct.
The Comptroller to Government.

S. G. Br

T33

1168 15/1/36

Proceedings of the Government of His Highness
the Maharaja of Mysore

Read -

Letter No D 3-2384/35-36 dated 21st January 1936 from the Deputy Commissioner, Mysore District soliciting in the circumstances stated sanction of Government to engage the services of the Government Advocate on behalf of the President, Maddur Municipal Council in C R P 21/35-36 on the file of the High Court of Mysore (Govinda Setty VS President, Municipal Council, Maddur)

Order No P 4797-4800/Exam 14-35-2

Dated, Bangalore, the 25th January 1936

S A N C T I O N E D

For General Secretary to Government

The Government Advocate with the duplicate notice and copy of the judgement
The Deputy Commissioner, Mysore District
The Comptroller to Government.

mk

Recd 27/1

L S G Branch

44) Issue notice for 30/1/36 and call for connected files

45) For perusal from the DC in his D/No letter dated 21/8/35 ... The report called for delayed on account of the appeal filed before the High Court ...

27/1

610/29/1

30/1/36

27/1

30/1

Please see
enclosed file of
the Law Section
Law 140-35
Pages 9 & 9

Serial No

46) The High Court have passed orders in the two appeals filed before them against the Mandya Magis judgments in respect of (1) the ~~unauthorised~~ re-construction by Mr Govinda Setty of his house ~~etc~~ at Maddur without leaving the required road margin in contravention of the terms of the license granted to him & (2) the unauthorised construction of steps to the house without obtaining license therefor The High Court have not interfered with the conviction in the second case but have reduced the fine from Rs 20/- to Rs 5/- and set aside the fine of Rs 5/- per day for failure to comply with the direction of the President The conviction in the first case has been set aside

47) The Dy Com^r Mysore who was asked to report whether effect action was ~~taken~~ given to the order of the trial in the first case Magistrate

K reported in his letter Dy b-935 that the ~~last~~ President of the MCS had been directed to promptly arrange for the removal of the unauthorised structure & that he was awaiting this report He has sent no further report in the matter, apparently because the appeal against the Magis order was pending in the High Court In view of the orders passed by the latter, it seems that action for the removal of the unauthorised structure can now be taken only in respect of the construction of the steps to the house and not of the portion of the house in the road margin prescribed in the license The Dy Com^r may however be asked to submit his promised report early ~~as~~

WD 03 94—GPB—30 000—13 7 35

encroachment in madden Town by one Govindaselly

File No 1168 of 193 | General and Revenue Secretariat

OFFICE OF THE SECOND MEMBER OF COUNCIL 25 MAR 1936 No 7377

1.(c) Reference is invited to the orders in paras 29 & 30 Supra. The Member wanted to see the papers after the appeal before the High Court was disposed of. The orders of the High Court are in the Sealed file

Dy Secy) 7 APR 1936

Second Member

Flags d & g in the sealed cover

For please flag refers before submission

are identical

6019 29/3

29/3

4(g) & (h) The main grounds on which the decision went against the Municipality was that the municipality authorities had failed to observe the time limit of one month prescribed in Section 79(3) for communicating the refusal of a house building application. A circular may be issued to all Municipalities impressing upon them the importance of taking action within the prescribed time in such cases.

5(b) It is also worthwhile examining whether there is sufficient legal sanction for the G O of 16th June 1931 which purports to prescribe minimum widths of road margins and how the refusal of any, in this case can be supplied. May be subject to Ist Member's Dewan

DMH 30/3/36

7147 1 4 36

DEWAN'S OFFICE 2 APR 1936 No 6025

Please put up draft circular

B Please take extract and separately with connected papers the question for consideration

1/4

1/4 6/4

Encroachment in Maddur town by Foundation Corp

11685 1168 18

General and Revenue Secretariat | File No | of 193 | [App F III—2

Serial No

A Dept enclose memo appl
Action regarding B and the letter
separately

Please put up a form Draft as req

17/4

Typed draft memo Corporation

28/4

Secretary)

28/4

35/4

28/4/36

28/4/36

28

6811
24/4

TYPING
28 APR 1936
GENL & REV SECTT

4

To the Dep Comm Dist
Mysore, Bangalore & Kolar Distt
Distt, Mysore Ext-Mercl
8337-46 Dy 1-5-36

Encl the enclosure relating action
in such cases within time prescribed

B

29/5

NOTE.—Contn Sheet

WD 03 94—GPB—30,000—18-7 35

File No of 193 General and Revenue Secretariat

L 8337-46

ml 62-35-44 W

CIRCULAR dt 1st May 1936

It has come to the notice of Government that in an appeal filed before the High Court against the conviction and sentence of a Magistrate in a case of prosecution for the erection of a building in a Municipal area contrary to the conditions of the license granted to the party the decision of the Court went against the Municipal Council, ~~mainly~~ on the ground that the Municipal authorities concerned failed to observe the time limit of one month prescribed by the law for the refusal of house building applications Section 79 (3) of the Minor Municipalities Regulation Section 109 (4) of the City Municipalities Regulation lay down the procedure to be followed in ~~such cases~~ dealing with such applications and also prescribe a time limit for their disposal, ~~with a view to ensure that bodies conform to norms obviating failure of prosecutions before courts~~, Govt wish to impress on all the Municipal Councils the importance of taking action within the time prescribed in the provisions aforesaid

~~and other municipal authorities concerned~~

By Order

28/4/36

28/4

Secretary to Government
Development Department

To

The Deputy Commissioners of Dts
The Municipal Commissioner
Bangalore City through the President
The President Mysore City Ml Council

28/4

52

Government of his highness the Maharaja of Mysore

GENERAL AND REVENUE DEPARTMENTS

G O No L 8337 46—Ml 62 35 44 dated 1st May 1936

Circular

ORDER No L 8337 46—ML 62 35 44 DATED BANGALORE THE 1ST MAY 1936

CIRCULAR

It has come to the notice of Government that in an appeal filed before the High Court against the conviction and sentence of a Magistrate in a case of prosecution for the erection of a building in a Municipal area contrary to the conditions of the license granted to the party the decision of the court went against the Municipal Council on the ground that the Municipal authorities concerned failed to observe the time limit of one month prescribed by the law for the refusal of house building applications Section 79(3) of the Minor Municipalities Regulation Section 109(4) of the Town Municipalities Regulation and Section 115(4) of the City Municipalities Regulation lay down the procedure to be followed in dealing with such applications and also prescribe a time limit for their disposal Government wish to impress on all the Municipal Councils the importance of taking action within the time prescribed in the provisions aforesaid

By Order
M VENKATANARANAPPA
Secretary to Government
Development Department

To—The Deputy Commissioners of Districts
The Municipal Commissioner Bangalore City through the President
The President Mysore City Municipal Council

Exd —C K

W D 1945—GPB—882—6 5 36

23

Appendix F G—1]

SUBJECT

Section

File No

Serial No

No L5317

To

Headquarters

I am directed to enquire if it is a fact that one Ramanda Chetty has encroached on the public road passing through Madam village and built a shop and dwelling house. It is understood that the encroachment has been brought to the notice of the Superintendent, but that he has not taken any action in the matter.

Diary No of letter replied to

General and Revenue Secretariat

( )

tne 193

Date of issue 4—2—35

Signed by [illegible]

List of enclosures

Copied by

Examined by [illegible] 4/2

The Superintendent has been requested to submit a detailed report.

24
may be used in the matter after enquiry,
within 10 days of the receipt of this letter

Manager

Wm 4/2
In Reg Wfd
Dnd
m

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

Dated Bangalore 4th February 1935

No L5317

From

The *Secretary to the Government of His Highness the Maharaja of Mysore*
Development Depa tment

To

The Deputy Commissioner

Mysore District

Sir

I am directed to enquire if it is a fact that one Govinda Chetty has encroached on the public road passing through Maddur village and built a shop and dwelling house It is understood that the Municipality prosecuted him but the Sub Division Officer let him off with a fine of Rs 10/- and allowed the building to remain as it was built, with the result that the man got a valuable piece of land for Rs 10/- It is requested that a detailed report may be submitted in the matter after enquiry within 10 days of the receipt of this letter

I have the honor to be
Sir
Your most obedient servant

For Secretary to Government
Development Department

THM 2

dlp
may she make up her mind in the matter after enquiry,
within 10 days of the receipt of this letter

Yours sincerely

Wm 4/2
In Reg Wood
and
re

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

Dated Bangalore 4th February *1935*

No L5317

From

The *Secretary to the Government of His Highness the Maharaja of Mysore*
Development Depa tment

To

The Deputy Commissioner

Mysore District

Sir

I am directed to enquire if it is a fact that one Govinda Chetty has encroached on the public road passing trrough Maddur village and built a shop and dwelling house It is understood that the Municipality prosecuted him but the Sub Division Officer let him off with a fine of Rs 10/- and allowed the building to remain as it was built, with the result that the man got a valuable piece of land for Rs 10/- It is requested that a detailed report may be submitted in the matter after enquiry within 10 days of the receipt of this letter

I have the honor to be
Sir
Your most obedient servant

For Secretary to Government
Development Department

TRM 2

No D3 3079/34
Enc one

OFFICE OF THE DEPUTY COMMISSIONER
MYSORE DISTRICT

Dated Mysore 7th February 1935

3531

FROM C S Kuppuswamiengar, Esq ,
~~THE~~ DEPUTY COMMISSIONER
MYSORE DISTRICT MYSORE

To

M Venkatanaranappa, Esq , B A ,
Secretary to the Government of Mysore,
Development Department, Bangalore.

SIR

Unauthorised construction of a building by one Govinda Chetty on the M C Road Margin in Maddur Town
=====

With reference to your letter No L 5317 dated the 4th February 1935 calling for a report in re the above, I have the honor to submit herewith copy of report No 152 dated the 29th January 1935 received from the President, Maddur Municipal Council, detailing the facts of the case Govinda Chetty having infringed the condition of the license and constructed the building was prosecuted in the Court of the Ex-officio 1st Class Magistrate and was fined Rs 10/-

As the President is empowered under Sec 78(2) of the Minor Municipal Regulation to remove the obstruction or encroachment, he has been directed to take immediate necessary action in the matter and report the result

I have the honor to be,
Sir,
Your most obedient servant,

~~For~~ Deputy Commissioner,
Mysore District
~~(Absent from station)~~

Report No 152 dated the 29th January 1935, from the Amildar, Maddur Taluk, to the Deputy Commissioner, Mysore Dt

=====

The following are facts in detail in the case and it may kindly be ordered if the Section 78 or 77 will apply to the case

(a) One Govinda Chetty had an old house on the road-side and applied for license to reconstruct it, after pulling it down

(b) The old house was built many years ago and no road margin rules were in force then probably In view of Government Order No 9907-37/M1 163-29-7 dated 16-6-1931, the petition for license to reconstruct his house was sent to Executive Engineer for opinion as per the G O in question He prescribed 11 feet margin from the border and the said condition was included in the license which was granted to him for reconstructing the house He disobeyed this cordition and reconstructed the house It was for disobedience of the license condition and building the house within the road margin, that he was prosecuted The correspondence to the Engineering Department etc , is in the (Ex-Officio) 1st Class Magistrate's Court, Mandya The same may be obtained, perused and kind instructions issued

=====

"Copy"

Ramachandra

For Deputy Commissioner,
Mysore District

A N

DO L 5807 D/22

Confidential

DO

To The Dy Com & Dt Magte
Mysore

Dear Sir,

With reference to the correspondence ending with your letter no D3 3071/34 dt 7 & 1935 regarding the unauthorised construction of a building by one Govinda Chetty on the road margin in Maddur Town, I am desired to ~~Report on the State~~ state that it appears from the Maddur Tahsildars report no 152 dt 29/1/35 that the road margin on which the building has been constructed in violation of the license condition is not Govinda Chetty's own land* and to enquire how Section 78(2) of the Mysore Motor Regn is applied to the case as stated in para 2 of your letter under reply. If the prosecution of the offender has been, as now said to be, for the disobedience of the license condition, action for the demolition of the encroachment has to be taken under Sec 79 (6)

* Encroaches to encroachment on a public street

The records connected with the case - both Municipal & Court records - may be obtained and forwarded for the perusal of Govt early

I am also to request you to ascertain from the Magistrate & report why he let off the offender with only a small fine when Sec 93 of the Regn provides for the levy of fine upto Rs 50/ and also at Rs 10/ for every day of the continuance of the offence

There is perhaps no objection to the District Magistrate also-matter may then engross

The matter may be treated as urgent & reply sent very early as also the further report promised in your letter of the 4th instant

Yours faithfully,

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

D O No C 5807

General and Revenue Secretariat 21st February 1935

Dated Bangalore

CONFIDENTIAL

Dear Sir,

With reference to the correspondence ending with your letter No D3 3079/34 dated 7th February 1935 regarding the unauthorised construction of a building by one Govinda Chetty on the road margin in Kaddur Town, I am desired to state that it appears from the Kaddur Amildar's report No 152 dated 29th January 1935 that the road margin on which the building has been constructed in violation of the license condition is Mr Govinda Chetty's own land and to enquire how section 78(2) of the Minor Municipalities Regulation which relates to encroachments on a public street is applied to the case as stated in para 2 of your letter under reply If the prosecution of the offender has been, as it is said to be, for the disobedience of the license condition, action for the demolition of the encroachment has to be taken under Section 79(6)

The records connected with the case - both Municipal and court records - may be obtained and forwarded for the perusal of Government

I am also to request you to ascertain from the Magistrate and report why he let off the offender with only a small fine when Section 93 of the Regulation provides for the levy of fine upto Rs 50/- and also at Rs 10/- for every day of the continuance of the offence

The matter may be treated as urgent and a reply sent very early as also the further report promised in your letter of the 7th instant

Yours sincerely,

C S Kuppuswamiengar,Esq ,
Deputy Commissioner &
District Magistrate,
MYSORE

DO No D3 3079/34 encl

3842 3 2

OFFICE OF THE DEPUTY COMMISSIONER
MYSORE DISTRICT
Camp Bangalore
Dated Mysore 26th February 1935

GE 27 FEB 1935

L B G BRANCH

Dear Sir,

ith reference to your D O letter No L 5807 dated the 22nd February 35 regarding the un uthorised construction of a building by one Govinda Setty on the road margin in Maddur town, I enclose copy of my letter No D3 3079/34 dated the 13th instant, addressed to the General Secretary to Government, requesting sanction to engage the services of the Government Advocate to conduct the appeal before the High Court on the 27th instant Sanction of Government has since been received The court records will be sent to you immediately after the appeal is decided by the High Court

2 In the meanwhile on a petition presented by Govinda Setty through his counsel Mr P Seetharamiah I have requested the President, Maddur Municipal Council to stay further proceedings pending the disposal of the case in the High Court The connected Municipal Records have been called for from the President if they have not already been sent to the Government Advocate and the same will be sent to you immediately on receipt

3 Needful instructions have also been issued to the President to take further action under section 79(6) of the Minor Municipal Regulation if the case is one falling under that section for having constructed that building in violation of the terms of the license after the appeal is disposed of

4 A report has been called for from the Ex-Officio Ist Class Magistrate at Mandya as to how he let off the offender with only a nominal fine though section 93 of the Minor Municipal Regulation empowers him to impose heavier punishment On receipt it will be sent to you

Yours sincerely,

Venkatanaranappa Esq , B A ,
Development Secretary to Government,
Bangalore

Letter No D3 3079 dated 13th February 35 from the Deputy Commissioner Mysore District to the General Secretary to Government Bangalore

In forwarding herewith copy of letter No D3 3079/34 dated the 8th instant addressed to the Development Secretary to Government in the matter of the unauthorised construction of a building by one Govinda Chetty on the M C Road margin in Maddur Town, I have the honour to state that the President, Maddur Municipal Council reports in his No 174/34-35 dated the 11th instant that the party has appealed to the High Court against the order of the Ex-Officio Ist Class Magistrate at Nandya convicting him and sentencing him to a fine of Rs 10/- and that the President has received summons to the effect that the appeal stands posted to the 27th instant for hearing

I request that sanction of Government may kindly be obtained to engage the services of the Government Advocate to conduct the case in the High Court on behalf of the Municipal Council

The President has been requested to obtain the necessary copies of the connected records and forward them to the Government Advocate for his reference

---

"Copy"

Deputy Commissioner,
Mysore District

CONFIDENTIAL
D O No D3 3079/34 Encl 1
C S KUPPUSWAMIENGAR Esq
DEPUTY COMMISSIONER

MYSORE 34

Dated 4th March 1935

5 3966
L

Dear Sir

In continuation of my letter No D3 3079/34 dated 23rd February 1935 re unauthorised construction on Madras-Cannanore road in Maddur Town by Mr Govinda Setty, I enclose copy of letter No 117 dated 1st March 1935 received from the Ex-officio First Class Magistrate containing his explanation

Yours sincerely,

M Venkatanarayanappa, Esq , B A ,
Secretary to the Government of Mysore,
Development Department, Bangalore

D O letter (Confidential) dated 1st March 1935 from the Ex-officio I Class Magistrate, Mandya, to the Deputy Commissioner, Mysore District

---

With reference to your D O letter No D3 3079/34 dated 25th February 1935 requesting me to report the circumstances under which one Mr Govinda Setty of Maddur was let off with a small fine when Section 93 of the Municipal Regulation provides for the levy of fine up to Rs 50/- and also at Rs 10/- for every day of the continuance of the offence, I write to state that the original case records of this Office having been sent to the High Court, I have referred to a copy of the records available with the Amildar-President, Maddur Taluk On a complaint petition of the President, Maddur Municipal Council, praying that the accused Govinda Setty be convicted for an offence under Sec 97 of the Minor Municipal Regulation, the case was tried and the accused convicted and sentenced to a fine of Rs 10/- under Section 97 and not under Section 93 of the Minor Municipal Regulation In cases of unauthorised construction of buildings, in defiance of authority as in the present case, the substantive remedy provided under the law is as per Section 79(6) of the Minor Municipal Regulation that "the President should, by written notice, require such building, alteration or addition to be altered or demolished as he may deem necessary and as no prosecution under Section 93 was available in this case, the above course would appear to be peremptory.

In view of this, the intention of Section 97 appears to be more to establish the offence itself Section 97 provides for the levy of fine which may extend to Rs 50/- Under this Ection, an offender may also be punished with further fine which may extend to five rupees for every day on which the said disobedience or failure continues after the date of conviction In the above circumstances, taking into consideration the only substantive remedy available in the case and the deposition of the party during trial, the fine imposed was considered adequate to meet the ends

of

of justice for a first infliction establishing the offence. In passing the order I had also in mind the material fact that it has been decided to form a deviation road in Maddur Town avoiding the present Petta street and that the party had nearly constructed the ground floor of the building when the case was launched before me and I inspected the site

It was not the intention that there should be no further levy, on the other hand the offender has to be punished with further fine of five rupees for every day for the continuance of the disobedience after the date of conviction, and as such it could not be imposed at the time of the original conviction in the circumstances of the case . In this case, if the prohibitory notice was not cancelled by the President of the Municipal Council, the party being a wilful offender, the further penalty under the law seems in my opinion to be called for and for this the President of the Municipal Council should under Sections 97 and 98(1) and (2) of the Minor Municipal Regulation take proceedings for the punishment of the person and the recovery of the full penalty within six months of the conviction It is not known why this has not been done hitherto However as the offence is understood to have been continued even after the conviction, I have in my capacity as Sub Division Officer, instructed the President, Maddur Municipal Council to take immediate needful action for filing proceedings before the Court

With kind regards

Copy:

A Ramachandraiah

for Deputy Commissioner,
Mysore District

NRS

Immediate & Confidential

4338 37

D O No D3 3079/34-35
Enc one file of Court Records

OFFICE OF THE DEPUTY COMMISSIONER
MYSORE DISTRICT

Dated Mysore 26th March 1935

Dear Sir,

Unauthorised construction of a building by one Govinda Setty on the Madras-Cannanore Road margin in Laddur Town

=====

With reference to your D O letter No L 5807 dated 22nd February 1935, and in continuation of this office D O letter No D3 3079/34 dated the 4th March 1935 re the above, I enclose the two files of Court Records received with Memo No A1 1793/34 dated 20th March 1935 from the Ex-Officio First Class Magistrate, Mandya The President Laddur Municipal Council has been again reminded to submi forthwith the Municipal records of the case, if any, on receipt of which, they will also be sent to you

The Ex-officio 1st Class Magistrate, states that the case has been posted for ~~trial~~ re-trial to the 2nd April 1935 I therefore request that the records may kindly be returned early

Yours sincerely,

M Venkatanaranappa, Esq , B A ,
Secretary to the Government of Mysore,
Development Department, Bangalore

A N

Appendix F G—1]

SUBJECT

Diary No of letter replied to

General and Revenue Secretariat

( )

the *193*

Date of issue 30-3-35

Signed by

List of enclosures

Copied by

Examined by

Section Immediate Confidential

File No

Serial No

No C 6795

To

The Dy Com, Nuwara Eliya

Sir

I am directed to return herewith the records received with your DO letter No DB 3029/34-35 of 26/3/35 re the unsanctioned construction of a building by one M Ramanathan of Madulla and to request you to forward a copy of the revised judgment as soon as one is passed

I have

for Secretary

WD 01956—GPB—22 500—12-6 34

Immediate receipt

39

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No L6795 Land Records Dated Bangalore 30th March 1935

From

The Secretary to the Government of His Highness the Maharaja of Mysore
Development Depa tment

To

C S Kuttusamy Iyengar Esqr

The Deputy Commissioner
Mysore District

Sir

I am directed to return herewith the records received with your D O letter No D 3 3079/34-35 dated 26th March 1935 re the unauthorised construction of a building by one Mr Govinda Setty of Maddur and to request you to forward a copy of the retrial judgment as soon as it is passed

I have the honour to be
Sir
Your most obedient servant

Aswathappa

for Secretary to Government
Development Department

700 40

No L D3 3079/34-35
Enc 4

OFFICE OF THE DEPUTY COMMISSIONER
MYSORE DISTRICT

Dated Mysore 8th August 1935

FROM

B T KESAVAIENGAR Esq B A
DEPUTY COMMISSIONER MYSORE DISTRICT
MYSORE

To

M Venkatanaranappa, Esq , B A ,
Secretary to the Government of Mysore
Development Department, *Bangalore*

SIR

Unauthorised construction of a building
by one Mr Govinda Setty in Maddur Town
=====

Adverting to correspondence ending with your letter No L 6795 dated 30th March 1935 in re the above, I have the honor to forward herewith copy of the retrial judgment in C C No 2 of 1934-35 on the file of the Ex-officio 1st Class Magistrate, Mandya

I have the honor to be,

Sir,

Your most obedient servant,

Ramachandrappa

For Deputy Commissioner,
Mysore District
(Absent from station)

A N

IN THE COURTOF THE Ex-OFFICIO I CLASS MAGISTRATE, LOKAPAVA

Dated this 27th day of July 1935

Present:- K V Ganapathi Iyer, Esquire , B Sc ,

Criminal Case No 2/34-35

Complainant		Accused
President,		
Municipal Council,	Vs	Govinda Setty
Maddur		

Judgement

In this case, the President of the Maddur Municipal Council, has presented a complaint against one Govinda Setty, accused, resident of Maddur Town, stating that the latter has re-constructed a house contrary to the conditions of the license issued to him, and has also disobeyed a stay order issued to him under Sec 79 (para 6) of the Minor Municipalities Regulation, and thereby committed an offence under Sec 87 of the same Regulation, and praying that the accused may be suitably punished according to law to ensure that the license corditions are not infringed The accused having pleaded not guilty on both the counts, the case was posted for evidence 4 witnesses were examined for the prosecution, no witnesses were produced for the defence 17 exhibits were filed by the prosecution and 1 by the defence The prosecution was conducted by the Prosecuting Inspector and Sub Inspector of Police, and the defence by Mr M Mahabala Rao, Counsel

The particulars of the prosecution case are as follows -

2 The accused applied for a license on 20-1-34 (Ex.P1) for reconstruction of a house in Maddur Petta by the side of the M C Road fter consulting the Executive Engineer, Mysore Division, (Vide exhibits P4 & P5), a license (Ex P6) was issued by the President of the Municipality to the accused, on 10-10-34 imposing a condition that the accused should build leaving a margin of 11 feet from the road drain as per Executive Engineer's instruction contained in Ex P5 The accused thereupon, after 2 or 3 days, started the construction but did not comply with the

conditions imposed in the license regarding the building and the margin to be left from the road This was brought to the notice of the accused by the President by a written notice served on him on 26-10-34 (Ex P10), and the accused was required to stop construction until further orders but the latter proceeded with the building Hence the case

3 The prosecution evidence on both the counts is over whelming and consistent PW 1 is the Vaildar and Ex-Officio President of the Madduru Municipal Council His evidence is clear 16 was the license issued to the accused At the accused's request, he went 2 or 3 days after the issue of the license with the Municipal Manegar to the accused's site and showed him how and where to build the house according to the license conditions, and the sketch received from the Executive Engineer (Ex P7) He has stated that he has received a report (Ex P8), from the Manegar regarding the infringement of the license condition by the accused Thereupon he went to the spot with the Manegar, verified the measurement and prepared a sketch Ex P9 showing the actual construction, in the presence of the accused, and found that the margin of 10 feet was not allowed as required in the license, and thereupon issued a stop order Ex P10 PW 1 has stated that after 10 or 15 days, he went to the spot and found that the accused had completed the foundation, and was going on with the building He has stated that till the license was issued after consulting the Executive Engineer, endorsements had been issued to the accused on 30-5-34 and 2-8-34 (Exs P11, P13(a) and P13(b)), that no work should be done pending the orders of the Executive Engineer It has been brought out in the cross examination of PW1 that the road margin for the building was prescribed in the license, to carry out the objects of the Municipalities' Regulation

4 Pw2 is the Manegar who is entrusted with the work of supervising construction of buildings as per licenses He has confirmed that the accused asked him+PW1 to show the place for construction and they went to the site and showed the place after verifying measurement 4 or 5 days after that, the accused started work but the construction was not as per license conditions as the building left 10 feet on one side and 7 feet on another, and therefore a

a stay order was issued by PW1 and served on the accused stating that further work should be stopped pending orders PW2 has state that the accused proceeded with the work even after the stay orde and he brought it to the notice of PW1

5 PW3 is the P W D surveyor who prepared the sketch Ex P7 He found that the building during construction was not parallel to the road or 11 feet away from it, as required by the license, and wrote to the accused in Ex P14 dated 24-10-34 asking him to - correct any error before proceeding further with the construction He inspected the actual construction again, and prepared sketch Ex P15, and reported to the Assistant Engineer that the accused was not constructing according to the license

6 P 4 is the Vice President of the Municipality confirms the issue of license Ex P6 to the accused His evidence is important He has stated that as the accused was constructing the house - contrary to the conditions of the license and in violation of the stay order issued to the accused on 26-10-34, he passed an order dated 5-11-34 that the accused should instantly stop further - construction pending further orders, and if he failed to do so, further action would be taken against him according to the rules This order was served upon the accused on 6-11-34 PW4 made a report regarding this, viz, Ex P17, with reference to the case which had already been filed against the accused

The accused was examined by the Court under 342 Crl Procedure Code to enable him to explain the circumstances brought in evidence but beyond referring to the written statement filed by him through counsel, no answers were furnished Beyond a mere denial of the charges made against him, the accused has furnished no defence

8 In the light of the evidence referred to above, on both the counts, first as to whether the accused failed to comply with the conditions imposed in the license issued to him, and secondly as to whether the accused failed to comply with the stay order issued to him by the President under Sec 79(6) a of the Minor Municipalities Regulation, the evidence of all the witnesses, including

PW3, who is a P W D official, is corroborative and leaves no room for doubt that the accused has failed to comply in both respects The evidence of PW1 and PW3 is clear that the accused was made - aware as to the exact requirements of the license Ex P6, on the site itself It is not necessary, I think, for the purposes of this case to go into the question of the grant of the license, under Sec 79(5) of the Minor Municipalities Regulation, the President of the Municipal Council is competent to impose conditions with reference to the location of a building in relation to any existing street, and under Sec 79(3)(d, he is entitled to direct that the building be stopped when the construction is contrary to the conditions imposed I hold the accused to be guilty of failure to comply with the directions in these respects and convict him of an offence under Sec 97 of the Minor Municipalities Regulation

9 Taking the circumstances of the case into consideration and the penalties levied under the law for the continuance of the offence, I am of opinion that the ends of justice will be met by the levy of a fine of Rupees thirty (Rs 30/-) and I sentence the accused - accordingly One week's time from the date of this order will be allowed to the accused for compliance with the conditions of the license issued to him For every day of non-compliance accordingly after the said period, he will further be sentenced, under Sec 97 of the Minor Municipalities Regulation, to pay a fine of five rupees (Rs 5/-

10 I think one observation may be made in this case In such cases where the conditions of a license issued to a party after careful consideration are infringed by the latter, I am of opinion that it is the duty of the municipal executive authority to promptly take action, if no alteration of the license conditions is warranted, for altering or demolishing the construction under the provisions of Sec 79(6)(b) of the Minor Municipalities Regulation, rather than allow unauthorised structures to come into existance

Pronounced in open Court

Sd E V Ganapathi Iyer,
Ex-Officio I Class Magistrate,

P P 1002/34

Copy of the above memo is forwarded to the Deputy Commissioner Mandya together with reference to his memo No D3 1079/34 dated 1 Dec 1935

29 7 35

45

C C No 2 of 1934-35

The following witnesses were examined for the prosecution -

1 [illegible] Chikkanarasimhaswami, B Sc , President, Municipal Council, Maddur

2 P Sivalingiah, Manegar, Maddur Municipality

3 M Narayana Rao, P W D Surveyor, Maddur

4 Channegowda, Vice President, Maddur Municipality

Exhibits filed on behalf of the prosecution

P1 Petition presented by the accused to the President, Maddur Municipal Council on 26-1-35

P2 Copy of G O No L [illegible]807-37/M1 163-29-7 dated 16-6-31

P3 Resolution of the Municipal Council dated 14-[illegible]-34 (Copy retained after returning the original)

P4 Yadi o 159/33-34 dated 16-2-34 from the President, Maddur Municipality, to the Executive Engineer, Mysore Division

P5 Reply No [illegible]98 dated 2-10-1931 from the Executive Engineer, Mysore Division, to the President, Maddur Municipality

P6 License No 9/33-34 dated 20- 6-34 issued to the accused by the Maddur Municipality

P7 Sketch drawn by P W 3 and signed by the Assistant Engineer, No V Sub Division, Mandya

P8 [illegible] report dated 24-10-34 to the President, Maddur Municipality

P9 Sketch drawn by Sivalingiah, Manegar, (P W 2) dated 2 -10-34

P10 Notice No 67/34-35 dated 28-10-34 issued to the accused by the President, Maddur Municipality

P11 Copy of endorsement No [illegible]68 dated 30-6-3 issued to the accused by the President, Maddur Municipality

P12 Endorsement (draft) No P P 5/34-35 dated 2-8-34 issued to the accused by the President, Maddur Municipality

P13 Jappal book of the Maddur Municipality from 6-7-3 to 30-6-35

P13(a) Signature of accused in P13 against serial No 255 dated 30-5-34

P13(b) -do- in P13 against serial No 22 dated 3-8-34

P14 Letter No 40 dated 24-10-34 from P W 3 to P W 1

P15 Sketch prepared by P W 3 after construction of the building in question dated 7-1-35

[illegible]

P16 Stay Order No 78/34 dated 5-11-34 issued by P W 4 to the accused

46

P17 Report No 78/34 dated 7-11-34 from the Vice President(P W 4) to the Sub Divisic Officer, Mancya

---

No witnesses were cited by the accused nor any examined for him

Exhibit filed on behalf of the defence

D1 Plan submitted by the accused along with his application(P1)

47

Section

File No

Serial No

No L 15-77

Diary No of letter replied to

To

Sir,

General and Revenue Secretariat

( )

e *193*

Date of issue 28-8-35

Signed by

List of enclosures

Copied by

Examined by

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

48

No L/S 77

Bangalore Dated 27th August 1935

From

The *Secretary to the Government of His Highness the Maharaja of Mysore*
Development Department

To

The Deputy Commissioner,

Mysore District

Sir

With reference to the correspondence ending with your letter No L & S 3079/34-35 dated 8th August 1935 forwarding a copy of the retrial judgment passed by the Ist Class Magistrate, Mandya concerning the unautharised construction of a building by one Mr Govinda Setty in Maddur Town, I am directed to enquire ~~xikk~~ whether effect has been given to the orders passed

A very early reply is requested

I have the horour to be
Sir
Your most obedient servant,

Aswathappa
Secretary to Government
Development Department

49

No D3 3079/34-35
Fnc

OFFICE OF THE DEPUTY COMMISSIONER,
MYSORE DISTRICT

Dated Mysore 6th September 1935

FROM

B T KESAVAIENGAR Esq B A
DEPUTY COMMISSIONER MYSORE DISTRICT
MYSORE

1168

To

M VENKATANARANAPPA, Esq , B A ,
Secretary to the Government of Mysore
Development Department, *Bangalore*

SIR

Unauthorised construction of a building by one Mr Govinda Setty in Maddur Town

---

With reference to your letter No L 1577 dated 27th/28th August 1935, regarding the above, I have the honour to state that the President of Maddur Town had been directed to promptly arrange for the removal of the unauthorised structure No report has yet been received in the matter An urgent reminder has been issued to the President to-day to subm his report immediately, on receipt of which, I shall submit the report called for

I have the honour to be,
Sir,
Your most obedient servant,

A Ramachandra Iyer

For Deputy Commissioner,
Mysore District

(Absent from Head quarters)

NRS

50

IN THE HIGH COURT OF MYSORE AT BANGALORE

Wednesday the 6th day of March 1935

Before

Mr Justice N K SreenivasaRao

Criminal Revision Petition No 232 of 1934-35

Govinda Setty — Accused — Petitioner

(By Mr S Ramaswamy)

-Vs-

The President
Municipal Council
Maddur — Complainant — Opponent

(By Mr A R Nagesvara Iyer, Government Advocate)

Criminal Revision Petition against the conviction and sentence passed by the Ex-officio First Class Magistrate Mandya, in Criminal Case No 1 of 1934-35

This Petition coming on for hearing this day the Court made the following -

ORDER

There is no admission by the Accused - Petitioner in respect of the 2nd charge and the case was not posted for evidence

The conviction and sentence on the 2nd charge are set aside The records will be sent back to the Magistrate for disposal according to law The fine if levied will be refunded

(Sd) N K Sreenivasa Rao

Judge

57

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

Read —

Letter No D 3-3079/34 dated 13th February 1935 from the Deputy Commissioner, Mysore soliciting sanction of Government in the circumstances stated to engage the services of the Government Advocate on behalf of the President Kaddur Municipality in an appeal filed in the High Court of Mysore, by one Govindasetty, against the order of the Ex-officio I Class Magistrate, Mandya imposing a fine of Rs 10 for the construction of a house in contravention of the terms of a license issued by the President of the Kaddur Municipal Council

---

O R D E R No D 1402 & Conf 146 M

Dated, Bangalore, 19th February 1935

S A N C T I O N E D

By order of Government

General Secretary to Government

To

The Deputy Commissioner, Mysore District
The Comptroller to Government
The Government Advocate

59

ppendix F G–1]

SUBJECT

Section

File No

Serial No

Diary No of letter replied to

No. L6157/DO

To

The W.L. Mysore

Dear Sir,

General and Revenue Secretariat

( )

the *193*

Date of issue 5-3-35

Signed by

with reference to your letter no 03 3 79 dt 26-2-35 regarding the maintenance & construction of a building by one Gowda Setty on the road margin in Maddur town, I am directed to forward herewith further reports of the ~~subordinate officers~~ on the loss of time over the report ~~expected from the subordinate officers~~ called for from the Executive Officer Maddur & Magistrate, Mandya, and request that the ~~required~~ report may be sent in the last para of your letter under reply. ~~from the Maddur~~

List of enclosures

Copied by

Yours faithfully

Examined by

~~Deputy Secretary~~

5th March 1935

L 6151

Dear Sir,

With reference to the correspondence ending with your D O letter No D3 3079 dated the 26th February 1935 regarding the urauthorised construction of a building by one Govinda Setty on the road margin in Maddur Town, I am desired to request you to forward immediately the report called for by you from the Ex-officio First Class Magistrate, Mandya and referred to in the last para of your letter under reply.

Yours sincerely,

MV

C S Kuppuswamaiengar, Esquire,
Deputy Commissioner, Mysore District,
M y s o r e

D.F